

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

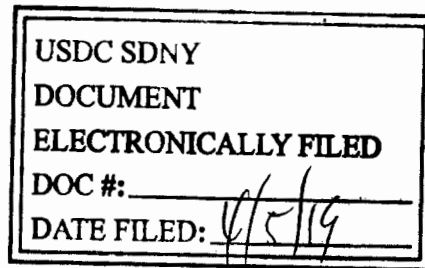
UNITED STATES OF AMERICA

-against-

CESAR ALTIERI SAYOC,

Defendant.

JED S. RAKOFF, U.S.D.J.



18-cr-820 (JSR)

ORDER

This Court previously noted that it had received a letter from defendant Sayoc that purported to clarify statements he made during his guilty plea colloquy. The Court asked the parties to indicate in writing by April 9, 2019 whether they believed it necessary to take further action.

The Court is now in receipt of a second letter from defendant Sayoc, dated April 1, 2019, in which he states that he was under extreme stress at the time of his guilty plea and that certain answers he gave - relating mainly to his subjective understanding of the risks posed by his actions - were inaccurate. The Court still wishes to receive written submissions from the parties, addressing both this and the previous letter, and the deadline for those submissions is extended to April 12, 2019.

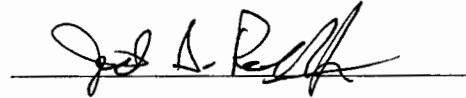
Additionally, the Court finds it necessary to hold an in-person hearing to address these issues. The parties are therefore directed to appear on April 15, 2019 at 2:00pm.

The Clerk of the Court is respectfully directed to docket defendant's letter along with this Order.

SO ORDERED.

Dated: New York, NY

April 5, 2019

A handwritten signature in black ink, appearing to read "Jed S. Rakoff", is written over a horizontal line.

JED S. RAKOFF, U.S.D.J.

(1)

04/01/2019

messaging

Your Honor Jed S. Rakoff:

Cesar Altieri Saez Jr. 03/17/1962 on March 21, 2019 at 4:00 p.m. I appeared in front of yourself at a Plea Hearing. Your Honor I was not in right state of mind. I was over whelmed, High anxiety, very nervous condition, I froze causing myself to not respond correctly.

As you could tell from my responses transcripts minutes 19 to 25 on page 20, I viewed the transcript, which is included & noted.

(19) The Court: Well what would prevent for example powder from fireworks from exploding?

The Correct Response:

I reviewed the transcript minutes I was freaked out over whelmed nervous with anxiety.

The devices would never explode or worked. The fireworks were sparklers type. I clearly did not understand the question & can't believe my responses, as you can clearly see Your Honor minutes 19-25 Page 20

(2)

messaging

(21)

The Defendant responded wrong:
 Sir: I was AWARE of the risk.
 The Defendant right response:
 Sir: I was not aware of risk.
 The fireworks was a sparkler & not
 capable to explode.

(24)

The Defendant responded wrong to
 Question: I'm sorry. I was AWARE
 of the risk that it would explode.
 I clearly did not understand question.
 The answer should have been. I was
 not aware of. Risk. The fireworks
 was a sparkler & not capable of
 exploding. I am not a chemist or
 scientist. Your honor, Response to
 questions minutes Page 22 messaging
 1 to 3 the answer statement is no.
 And page 20 messaging 24 & 25. Page 21
 messaging 23-25.

Page 21

23-25

The Court: OK, Did you know there
 was a risk that would be injury
 to a persons?

Page 22

mess 1

The Defendant: Yes sir. The answer
 should be no. I was freaked out &
 over whelmed with the amount
 People, Press & Pressure overly intense
 high Anxiety. I was in tears,
 emotional, Nervous.

PAGE: 22

The defendant: No

MESS: 1

PAGE: 22

The court: No

MESS: 2

PAGE: 22

MS. Gallicchio: He said "Yes".

MESS: 3

my meaning is No SIR. I was
Freaked out meaning not comprehending
overwhelming.

I just recieved the Plea minutes
today & reviewed it. 04/01/2019 at
5:00 p.m.

Your honor I have many mental
issues that came out lowerly
emotional, Fobias, Freaked out, over
whelmed by crowds, high anxiety
very nervous disorders & condition,
Unacceptable pressure.

Also the paper I read Judge
Rakoff was written by my
attorney & Given to me the day
of Plea at court in front of Your
honor. I had no time to read or
review the paper I read at court of
WHAT IT meant.

Sincerely:

Cesar Altieri Sayre Jr. Cesar Altieri Sayre Jr.
17781-104
MCC New York
150 PARK Row
New York, NY 10011

J3LAASAYP

Plea

1 prove every essential element of each of these 65 counts beyond
2 a reasonable doubt?

3 MR. BOVE: Yes, your Honor.

4 THE COURT: Does defense counsel know of any valid
5 defense that would likely prevail at trial or any other reason
6 why her client should not plead guilty?

7 MS. GALLICCHIO: No, your Honor.

8 ~~I WAS SO NERVOUS I FREAKED OUT BROKE DOWN CRIED~~
9 ~~THIS IS THE PAPER MY ATTORNEY WROTE MYSELF.~~
THE COURT: Mr. Sayoc, tell me in your own words what
it is that you did that makes you guilty of these crimes.

10 THE DEFENDANT: In October 2018, I made device that
11 were designed to look like pipe bombs and sent them through the
12 U.S. mail. I sent a total 16 devices to people around the
13 country. I mailed them from South Florida to George Soros,
14 Hillary Clinton, John Brennan, Robert DeNiro, James Clapper,
15 Barack Obama, Maxine Waters, Eric Holder, Joe Biden, Cory
16 Booker, Kamala Harris, Thomas Steyer, and CNN.

17 I sent all of the 16 devices with the intent to
18 threaten and intimidate people and with the intent to injure
19 property.

20 The devices consisted of a plastic pipe with a digital
21 alarm clock and wires attached to it. Inside the plastic pipe
22 was powder from fireworks, fertilizer, pool shock and some
23 glass fragments. I also put pictures of the recipients with a
24 red 'X' over their faces inside the package.

25 THE COURT: All right. Is there anything else

J3LAASAYP

Plea

1 regarding the factual portion of the allocution that the
2 government wishes the Court to inquire about?

3 THE DEFENDANT: No, sir.

4 MR. BOVE: Couple of issues, judge.

5 First, with respect to Counts One through 16, the
6 weapons of mass destruction offenses, we ask that the Court
7 inquire whether the defendant intended the devices that he just
8 described to be used as weapons which is a component of a
9 definition of "destructive device" which folds up into the
10 definition of "WMD". That's the first request we question.

11 THE COURT: OK. You heard the government's question?

12 MS. BAUMGARTEL: Your Honor, if I may briefly? I
13 believe that the allocution we've submitted had addressed had
14 in the sense that he described that they were designed and
15 intended to look like pipe bombs and then described the
16 components that were --

17 THE COURT: Do you have a copy of what he was just
18 reading from?

19 MS. BAUMGARTEL: Yes.

20 THE COURT: Would you hand it up?

21 (Pause)

22 THE COURT: So, Counts One through 16 charge him with
23 knowingly using, attempting to use or threatening to use a
24 destructive device as defined in Title 18 U.S.C. 921,
25 specifically, improvised, explosive devices sent through the

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Plea

1 U.S. mail.

2 Now, the defendant just said in the first sentence of
3 his statement:

4 "In October 2018, I made devices that were designed to
5 look like pipe bombs and sent them through the U.S. mail".

6 So, is the question whether these were in fact devices
7 that could have exploded?

8 ~~MR. BOVE: So there are two parts to the definition of~~
9 destructive device that your Honor cited in Section 921. The
10 first is capable of exploding. And I think that the
11 defendant's allocution has covered that in that he described
12 packing explosive powder into the pipe which in turn was
13 capable of exploding.

14 There's a second component of the destructive device
15 definition and I'm reading now:

16 "The term "destructive device" shall not include any
17 device that is neither designed, nor redesigned for use as a
18 weapon".

19 ~~And I don't think there's some delta between designing~~
20 something to look like a weapon which is my understanding of
21 what the allocution has reached so far and the statutory
22 definition of "design or use as a weapon". And it's a
23 distinction that I think bears very much on the defendant's
24 intent.

25 MS. BAUMGARTEL: Your Honor, in order to meet the

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1 elements of the statute Mr. Sayoc simply has to have threatened
 2 to use a destructive device. Whether or not that item was.
 3 actually a destructive device, is not an element. So, for
 4 example, there is pretty clear --

5 THE COURT: Well, no --. Forgive me for interrupting.
 6 He said the following in the later part of his allocution:

7 The devices consisted of a plastic pipe with a digital
 8 alarm clock and wires attached to it. Inside the plastic pipe
 9 was powder from fireworks, fertilizer, pool shock and some
 10 glass fragments.

11 I also put pictures of the recipients with the red
 12 'X's over their faces inside the package.

13 Let's start first, Mr. Sayoc. You clearly intended
 14 that these would be use viewed as explosive devices, yes?

15 THE DEFENDANT: Yes, just viewed.

16 THE COURT: All right. Did you intend that they would
 17 in fact explode?

18 THE DEFENDANT: No, sir.

19 THE COURT: Well, what would prevent, for example,
 20 powder from fireworks from exploding?

21 THE DEFENDANT: Sir, I was aware of the risk.
 22 Sir I WAS NOT AWARE OF RISK

23 THE COURT: I'm sorry. You've got to speak a little
 24 louder, sir.

25 THE DEFENDANT: I'm sorry. I was aware of the risk
 that it would explode. Sparkler fireworks are not explosives

I AM NOT A CHEMIST, I HAD NO KNOWLEDGE THEY WOULD
 EVER EXPLODE

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

I DID NOT UNDERSTAND THE QUESTION
 T ...

25
 WTS
 12 NOT
 18 STAND
 19 HOW

7
 Able to
 explode

J3LAASAYP

Plea

1 THE COURT: Well, let me ask the government, is there
2 another question in this regard that you want to put to the
3 defendant?

4 MR. BOVE: No, your Honor. I think that the
5 defendant's admission just now that he was aware that they were
6 capable of exploding.

7 THE COURT: OK. Very good.

8 MR. BOVE: There's a second issue, judge.

9 THE COURT: Go ahead.

10 MR. BOVE: And this bears on the intent element with
11 respect to Counts 17 through 32, interstate transportation of
12 explosives, as well as the Counts 49 through 64, illegal
13 mailing of explosives. And we ask that the Court inquire of
14 the defendant whether he intended that these mailings would be
15 used to kill or injure another?

16 MS. BAUMGARTEL: Your Honor, the element included
17 injure property, which he said.

18 THE COURT: So sounds to me like I'm already hearing
19 the arguments I am going to hear at sentence.

20 So, you did intend that there would be potential
21 injury to property, yes?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: OK. Did you know there was a risk that
24 there would be injury to persons?

25 I'm sorry?

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Plea

No The correct answer.

22

1

THE DEFENDANT: Yes, sir.

2

THE COURT: No?

3

MS. GALLICCHIO: He said "yes".

4

THE COURT: I'm sorry. You need to speak a little

5

louder. I'm an old man. I barely can hear what my children

6

say, let alone what you say.

7

So, I think that's sufficient, yes?

8

MR. BOVE: Yes judge. Thank you.

9

THE COURT: Anything else from the government?

10

MR. BOVE: No, your Honor. Thank you.

11

THE COURT: Anything else on any aspect of the

12

allocution from either the government or the defense?

13

MS. GALLICCHIO: No, your Honor, not from us.

14

MR. BOVE: No, your Honor. Thank you.

15

THE COURT: You mentioned each of the individuals and

16

to move this along I'll just repeat what your statement was in

17

that regard.

18

I sent a total of 16 devices to people around the

19

country. I mailed them from South Florida to George Soros,

20

Hillary Clinton John Brennan, Robert DeNiro, James Clapper,

21

Barack Obama, Maxine Waters, Eric Holder, Joe Biden, Cory

22

Booker, Kamala Harris, Thomas Steyer, and CNN.

23

I think under those circumstances we don't need to go

24

count by count, but I think we do need to go by group.

25

So first, with respect to the first 16 counts which

From: Cesar Altman Spec. In.

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04/03

